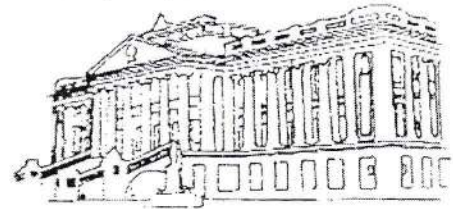


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சனாதிபதி அலுவலகம்  
PRESIDENTIAL SECRETARIAT



My No : CA/7/FA/1

January 14, 2011

Ministry of External Affairs

20 NOV 2013

Circular No: SP/CA/01/11

Att. DG/COMMERCE

SAS/SW

SAS/CW

SAS/WT.

All Secretaries to Ministries  
Chief Secretaries of Provincial Councils  
Secretaries to Governors of Provinces  
UN/HK/NAM/Bilateral Div.

20/2/A

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Interaction by Government Ministries/Departments  
with Foreign States and International Organizations

This Circular sets out guidelines to be followed by Government Institutions in their dealings with foreign States and International Organizations and are designed to streamline and systematize formal and functional contacts between various organs of the State and the foreign institutions concerned.

02. General

According to internationally accepted practice as stated in Article 41(2) of the Vienna Convention on Diplomatic Relations (1961), the principal institution for the conduct of foreign relations is the Ministry of External Affairs. This is in order that in the conduct of foreign relations the various organs of the State speak with one voice. All communications to foreign governments must, in principle, be channeled through the Ministry of External Affairs.

In specialized areas, such as defence, foreign funding etc. direct interaction by Ministries/Departments with foreign diplomatic missions and entities would be desirable taking into account special imperatives and circumstances. It is nevertheless essential that the Ministry of External Affairs be kept informed of all such transactions. This is important since, in the event of an impasse, which has happened on many past occasions the Ministry of External Affairs would be required to step in, on behalf of the Government of Sri Lanka, as the intermediary between the national agency concerned and the foreign Government in order to settle outstanding issues. Such issues, if left unresolved or allowed to escalate, could become irritants or inter-State disputes, which adversely affect the overall bilateral relationship between Sri Lanka and the foreign State or organization concerned. The prolongation of such situations, could even lead to retaliatory sanctions being threatened or applied by the concerned foreign Government in an area of vital interest to Sri Lanka. All these situations have occurred in the past.

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03. INTERNATIONAL AGREEMENTS

(a) *Negotiations by line ministries relating to international agreements*

- (i) As per Cabinet decision dated 21<sup>st</sup> August 2002, any formal proposal involving treaty negotiations with the authorities of foreign States made by line Ministries and Departments of the Government of Sri Lanka should first be brought to the attention of the Ministry of External Affairs.
- (ii) Provincial councils, Provincial Ministers and conclusion of Agreements with foreign Governments

Under the 13<sup>th</sup> Amendment to the Constitution, the subject of entering into and implementing Treaties, Agreements and Conventions with foreign countries is included in the Reserved List and is assigned under Article 44 of the Constitution, to the Ministry of External Affairs.

Nevertheless, it is noted that Chief Ministers of Provincial Councils when on official visits abroad conclude instruments such as Memoranda of Understanding (MOU) with provincial entities in foreign countries without prior consultation with the Ministry of External Affairs.

In view of the existing constitutional requirements the substance of such an agreement must first be cleared with the Ministry of External Affairs, which would examine, inter-alia, whether there are foreign relations sensitivities and/or legal implications. Upon being satisfied with the content of the draft and that there are no such sensitivities or legal implications, the Ministry of External Affairs will communicate its concurrence to the Provincial Council concerned.

It is only with the concurrence of the Ministry of External Affairs that the Provincial Council concerned should proceed thereafter.

(b) *Cabinet Approval*

Once the text of an Agreement is settled, the approval of the Cabinet of Ministers should be obtained by the relevant line Ministry/Department before action is taken to commit the Government. Once Cabinet approval is obtained, action will be taken by the Ministry of External Affairs to prepare the text granting Full Powers designating a person to sign on behalf of the Government. This requirement applies to all instruments of a binding nature' i.e. whether such instrument is titled an 'Agreement' 'Memorandum of Understanding' 'Protocol' etc.

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(c) *Full Powers*

Only the Head of State or Government and the Minister of External Affairs may commit the Government to any international obligation without written authority from any other person. All persons other than the Head of State or Government and Minister of External Affairs must receive written authorization (Full Power) from the Minister of External Affairs before signing any international agreement. Therefore, the relevant line Ministry/Department should submit a copy of the Cabinet Approval well in advance of the date of signing (at least 10 days in advance) in order to enable the instrument of Full Power for the signature of the Minister of External Affairs to be prepared.

(d) *Credentials*

In the case of the negotiation of multilateral agreements as well as participation at multilateral conferences, credentials designating the Government's representatives and establishing the scope of their authority would be required. Such credentials will be drawn up by the Ministry of External Affairs once the delegation has been approved by H. E. the President. Requests for credentials, together with a copy of such approval should be submitted well in advance (at least 10 days in advance) in order to enable the credentials for the signature of the Minister of External Affairs to be prepared.

(e) *Parliamentary approval*

According to the practice followed by Sri Lanka, conclusion of international agreements requires only the approval of the Cabinet of Ministers. However, there are, generally, three situations in which treaties need to be tabled in Parliament. These are:

- (i) where an Act of Parliament specifically requires Parliamentary approval. For instance, in terms of Article 157 of the Constitution, Agreements for the Promotion and Protection of Investments are required to be presented to Parliament for its approval, in order to secure the Constitutional protection guaranteed under that Article.
- (ii) where legislative implementation is required to give effect to the Agreement at the domestic level
- (iii) where the subject matter of a treaty is of such overriding political importance that it should be placed before Parliament for its information.

The Ministry of External Affairs will, in such instances, take appropriate action to have the relevant agreement placed before Parliament.

6

(f) *Depository Functions*

The Ministry of External Affairs is the depository of international agreements concluded by Sri Lanka. The original copy of any Agreement signed on behalf of Sri Lanka should therefore be transmitted to the Ministry for retention by the Legal Division of the Ministry of External Affairs. Where considered necessary important Agreements will be published in the Sri Lanka Treaty Series.

04. VISITS ABROAD

On several occasions requests have been made to the Ministry of External Affairs at very short notice to arrange official meetings for Sri Lankan Ministers travelling abroad, as well as for meetings with dignitaries of foreign States. Sometimes several Ministerial visits from Sri Lanka to a single foreign capital have followed successively. On some occasions, these multiple visits have prompted the foreign State concerned to query the rationale and the need for such multiplicity of visits, often for the same purpose. Furthermore, our Missions abroad function with limited resources and such requests, without adequate prior notice, would place the Mission in a very difficult situation.

It has also been noted that certain Ministries make direct requests to Sri Lanka Missions abroad, and in certain instances, to the Ministries of foreign Governments requesting facilities and arrangements for Sri Lankan VIPP to make official/non-official visits to those countries. This practice is inappropriate both from the administrative/protocol as well as foreign relations point of view. All such requests need to be channeled through the Ministry of External Affairs. Sri Lanka Missions abroad have been so informed and they will not entertain such direct requests except in emergency situations.

In order to avoid such situations, it is necessary that all such requests be rationalized and henceforth channeled through the Ministry of External Affairs. The Ministry of External Affairs will process the request, taking into account, the foreign relations implications, and will advise the Missions abroad as to the action to be taken.

Similarly, when an invitation is extended to a Minister or a senior official of a Ministry by a foreign Government for travel abroad such invitation should be referred to the Ministry of External Affairs. The Ministry of External Affairs will examine the request (i.e. whether the request emanates from a State with which Sri Lanka maintains diplomatic relations and the status of the bilateral relationship etc.) and accordingly will give its concurrence to the visit.

Thereafter steps should be taken to secure the prior approval of H. E. the President.

Furthermore, before an invitation is extended to a foreign dignitary to visit Sri Lanka, during a visit abroad of a Minister/senior official, the concurrence of the Ministry of

External Affairs needs to be obtained. This is necessary primarily to determine whether such a visit is desirable in the context of Sri Lanka's relations with the State of the concerned dignitary and in the context of Sri Lanka's overall foreign policy considerations at the relevant time. The possible benefit for Sri Lanka from such a visit and also the proper scheduling of visits in view of the limited resources available for visits are also matters that would have to be examined.

05. VISAS

The Ministry of External Affairs and Sri Lanka Missions abroad receive several requests to obtain visas or to support applications for visas in respect of both official and private travel.

The Ministry of External Affairs has no authority to obtain or support requests for visas for private travel. No such requests should be made to the Ministry of External Affairs to sponsor or support visas for private travel by any person including those holding official positions. No Government institution should issue official letters supporting visa applications for private travel. If the intended travel is of an official nature by the Ministers, Deputy Ministers or the official of a Ministry, such information should be furnished to the Ministry of External Affairs at least two weeks prior to the date of the visit. The Ministry of External Affairs will, in turn, issue a Third Person Note supporting the request for a visa, provided the clearance of H. E. the President has been obtained for such travel. In the case of Members of Parliament, the request should be made by the Secretary-General of Parliament.

In case the visa is to be obtained through a Sri Lanka Mission abroad, such request should be made at least three weeks before the intended date of travel.

06. ATTENDANCE AT DIPLOMATIC FUNCTIONS

The Cabinet of Ministers decides on the nomination of a Minister each month to represent the Government at National Day functions of a foreign State. Where such nomination is made, it is essential to ensure the personal participation of the nominated Minister since the Government needs to be represented at National Day functions at an appropriate level. In the event of any difficulty with regard to the Minister's attendance, the Protocol Division of the Ministry of External Affairs should be informed in advance, ideally at least one week before, in order to make alternative arrangements.

A brief statement to be read out on the occasion will be prepared by the Protocol Division of the Ministry of Foreign Affairs and transmitted to the relevant Minister.

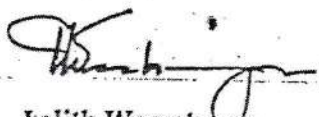
The monthly schedule of National Days will also be conveyed to the Minister.

It is also important to ensure that Ministers do not accept invitations for receptions and luncheon/dinner engagements extended by a diplomatic mission at a level below the rank of Ambassador/High Commissioner or Head of Mission.

07. HOSTING OF INTERNATIONAL/REGIONAL CONFERENCES, SEMNARS ETC.

It is necessary to streamline the procedure with regard to hosting of international/regional conferences, seminars, etc. Before a commitment is made to a foreign State or Organization to host such an event in Sri Lanka, the concurrence of the Ministry of Foreign Affairs should first be obtained. A request for concurrence should set out briefly, the objectives of the conference or seminar, list of participating States/Organizations, any assistance required to be given by the Ministry of Foreign Affairs by way of facilitating visas, protocol assistance, etc. Such requests should be made to the Ministry of Foreign Affairs at least one month before the event to enable the Ministry to liaise with the relevant Sri Lanka Diplomatic Missions abroad, the Controller of Immigration and Emigration etc.

H.E. the President has directed that the above guidelines be strictly complied with. Please bring the contents of this Circular to the attention of the Hon. Minister/Governor/Chief Minister and the relevant officials of your Ministry/Provincial Council.



Lalith Weeraratunga  
Secretary to the President

- Cc: 1. S/PM
- 2. S/Cabinet
- 2. Auditor General
- 3. Commissioner of Elections
- 4. Secretary General of Parliament
- 5. Secretary to the Leader of the House of Parliament
- 6. Secretary to the Chief Government Whip